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THE USELESS HOUSE OF LORDS.

BY JUSTIN MCCARTHY, M. P.

THE House of Lords is the champion anomaly of the British constitution. Now, I do not by any means propose to make myself responsible for the dogma that an anomalous institution can never render good service to a state. It is quite conceivable that some institution which had long outlived its original and habitual use might nevertheless at various periods of public crisis come to play an important and even a saving part in the affairs of the nation. But the peculiarity of the English House of Lords is that it could not now by any possibility play such a part. The day of its destiny is over ; the star of its fate has declined.

In former times there was indeed a grandiose and high-sounding Tory doctrine about the mission of the House of Lords. The theory was that the House of Lords was an institution of something very like heavenly origin, the function of which was to step in between a blinded and maddened nation and that nation's self-destruction. The nation, let us assume, is going mad. Inflamed by the frantic and hyperbolic rhetoric of some wicked and self-seeking Liberal—some Fox, or Grey, or Bright, or Gladstone—the maddened nation is rushing on its own doom. It is clamoring for some insane project of law—a reduced franchise, for instance, a system of taking vote by ballot, a throwing-open of the national universities to all persons without distinction of creed, or any of those wild revolutionary schemes, the accomplishment of which, as is well known, brings states to their instant downfall. Very well. Now here, according to the ancient theory, comes in the mission of the House of Lords. The House of Commons has failed in its duty and has passed a measure to admit workingmen to the franchise, or to protect the voting citizen by the ballot, or to allow Roman Catholics and Dissenters to win all the university honors they can. The House of Commons has done this, and the nation is lost if the House of Lords

does not step in to save it. So the House of Lords steps in and saves. It rejects the popular measure which the House of Commons had passed—and behold a rescued state !

This was undoubtedly the ancient Conservative theory concerning the business of the House of Lords. But the theory has fallen into sad disrepute of late years even among the Tories. The House of Lords interfered to save the state from Lord Grey's Reform Bill, and it had to pass the bill all the same. The only difference was that the bill might have been passed quietly but for the House of Lords, whereas it was passed because the storm of popular indignation rose so high as to frighten the poor peers into abject submission. It will never, perhaps, be known with any precision how near, how very near, England may have come to a terrible revolution while the House of Lords was trying to resist the passing of the Reform Bill. Well, but if the House of Lords has to give way whenever the people loudly and firmly demand anything, what is the particular use of the House of Lords ? The part of a savior of society is no doubt a very responsible and a very noble part ; but of what possible advantage is a constituted savior of society who cannot save ? Nobody believes any more that the Lords can prevent the passing of any popular measure.

The House of Commons is slow enough, in all conscience, about measures of reform. Its natural inclination is to postpone everything, if not, indeed, to oppose everything, in the way of reform. The majority of the House of Commons is composed of steady-going, respectable men without two ideas in their heads. They are inclined to think every man a fanatic or a bore who has ideas of his own on public questions, or, most often, a fanatic and a bore combined. But the majority of the House of Commons are practical men and are responsible to their constituents, and they very soon find it borne in upon them that their constituents are really in earnest about some particular measure, and are determined to have it passed into law.

The familiar idea that the House of Commons is a reforming institution of its own motion and its own purpose is quite a mistake. The House of Commons is not naturally disposed to disturb itself much about measures of reform.

What could the American public think of an institution that has resisted and delayed every great reform proposed by English statesmanship ? For that is not an exaggerated description of

the career of the House of Lords. Every measure carried by the Commons to extend the franchise, to protect the humble voter in his discharge of his electoral duty, to make education national, to make the transfer of land free, to release the tenant from actual servitude to his landlord, to introduce peace into Ireland by any process less stupid and brutal than that of a new coercion bill,—every such measure has been resisted in the first instance by the House of Lords. The House of Lords is a chamber composed almost exclusively of one class—the landlord class. Writing in the ordinary way, and expecting to be understood by reasonable human beings, one would be fairly warranted in describing the House of Lords as exclusively made up out of the landlord class. But, to anticipate small criticism on my own side of the water, I shall describe it as almost thus composed. Then, being a house of landlords, they are naturally a house interested in the maintenance of an Established Church with its system of presentation to livings as part of a landlord's personal property. Now, land reforms, franchise reforms, educational reforms, and reforms abolishing class privileges of any kind, are the main objects of English Liberal legislation. Therefore we have a House of Lords, a permanent institution of the state, with a very large majority of Tories in it, and a majority of landlords so great as to be absolutely overwhelming and to leave the tiny non-landlord minority of no account at all,—we have that House of Lords set up as a permanent tribunal to revise and reject the measures of the representative chamber, the House of Commons. I have already admitted that the Lords always have to give in to the House of Commons in the end. But this very fact is only one other argument to show the absurdity of such an institution. If the House of Lords must knuckle down at last to the House of Commons, what becomes of the theory of a saving upper chamber.

But, although the House of Lords cannot finally resist or reject, it can delay, it can obstruct, it can annoy and even exasperate, it can tamper with and mutilate and spoil good measures, and so make necessary the introduction of supplementary measures to repair the harm the Lords have done. Let us take some illustrations of this faculty which it undoubtedly possesses. I begin with the action of the House of Lords in regard to Mr. Gladstone's measure for the repeal of the paper duty.

The paper duty was simply a tax upon education. The paper

duty made it practically impossible for a cheap and popular newspaper to exist in Great Britain and Ireland. The working classes and the poor were by its operation cut off from the sight of a daily paper, for the regular price of a daily paper then was sixpence. Two venturous papers were started at a penny each shortly before 1860, but it did not appear possible that, under the conditions, they could be maintained. Mr. Gladstone was Chancellor of the Exchequer in 1860, and he brought in a bill for the abolition of the duty on paper. The House of Lords threw out the bill. The country was immersed in some months of confusion, agitation, vexation. Lord Palmerston endeavored to make it easy for the House of Lords. Mr. Gladstone denounced their conduct with outspoken eloquence. Lord Palmerston had it quietly conveyed to the Lords that they must pass the bill next session. The story used to go—and even if it be not true, it is characteristic of public opinion concerning the man—that Palmerston sent a message to the leading peers to the effect that what they had done was a very good joke for once, but that it must not be repeated. It was not repeated. The Lords passed the measure quietly and tacitly in the very next session. Yet those who heard the debate in the House of Lords in the session of 1860, when the bill was rejected, who listened as I did to the impassioned rhetoric of the late Lord Derby and to the lofty argument of the venerable Lord Lyndhurst, would have thought that the whole fate of England as a state depended on her maintaining the duty on paper. What had happened between that time and the next session—a few months—to revolutionize the opinion of the House of Lords? Nothing; but they saw the country was not with them, and that even their best friend, Lord Palmerston, was not prepared to back them up. They delayed for a few months a measure of vast national importance; they exasperated many persons and classes in the country—and that was all. What a part for a savior of society to play!

Let us come down a few years later. In 1869 Mr. Gladstone, being then Prime Minister, at the head of a powerful majority, carried his measure for the disendowment and disestablishment of the Irish State Church. The House of Lords did not venture actually to resist it. But when the measure came before them in committee, they so handled it and hacked it that they were enabled to secure a great portion of the plunder for the benefit of the disestablished church and to dodge the nation out of a large

part of its national property. The Irish Church—that is to say, the ecclesiastical staff—was disestablished altogether, but not by any means disendowed. The measure failed for this very reason to give full satisfaction in Ireland. But Mr. Gladstone naturally thought that it was better for the moment to be content with having secured the principle of disestablishment, and so let the Lords give away at their own sweet will a good many handfuls of the national property of Ireland.

Again, when Mr. Gladstone's government introduced the bill for the abolition of the purchase of commissions in the army—a system for which the wit of man could invent no reasonable excuse—the House of Lords passed a resolution which would have practically defeated the measure of reform. Mr. Gladstone met this resistance by what I cannot help calling a political *coup d'état*. The system of purchase in the army was founded in old days by royal regulation. Mr. Gladstone advised the Queen to cancel the royal warrant which made the purchase of commissions legal. The Queen did so and the purchase system came to an end, and the House of Lords was left hopelessly in the lurch.

The measure introduced by Mr. Gladstone's government to establish the system of vote by ballot was rejected by the House of Lords on its first presentation, but it had to be accepted or swallowed by the peers in the very next session. It should be said that even in this second session the peers tried to spoil the measure and render it absolutely worthless as a protection to the voter. The House of Commons stood firm and the House of Lords had to give in. The measure to admit all lay students of whatever faith to the national universities on equal terms was carried by Mr. Gladstone in 1871, after a similar measure had been twice over carried by the House of Commons and twice over rejected by the House of Lords.

There is something provoking—I cannot find any better word to express what I mean—in the habitual policy of the House of Lords. It will pass anything the moment the country gets angry and makes a row. It will oppose or postpone, or mutilate or emasculate, any measure of genuine reform if it seems at all likely that such a course can be taken with impunity. Therefore one cannot even have the respect for the House of Lords which he might have for implacable and fearless fanaticism, or even implacable and fearless selfishness. The House of Lords will not

fight. It surrenders, but does not die. One session the peers through their majority give forth their *non possumus*. They cannot hear of the proposed change. Personal conscience and national honor alike forbid them. To pass such a bill would make them accomplices in the destruction of England's safety and England's glory. The voices of the past, the present, and the future alike forbid the House of Lords to sanction such legislation. The dead would arise from beneath their marble tombs and their monumental brasses to forbid such a sacrifice of all that English tradition holds most dear. So the heroic attitude is maintained for one session. Then the next session comes and the House of Lords will pass the very same bill without a murmur of serious dissent or objection—and will leave the illustrious dead to sleep beneath their marble tombs and their monumental brasses.

I firmly believe that the House of Lords is responsible directly for the worst disturbances that prevailed in Ireland during the years from 1881 to 1885. I think I can make my conviction clear and show that its reasons are good. Mr. Gladstone came back to power in the early part of 1880. He had been in opposition for six years. Every one on both sides of the House of Commons assumed that the first great and difficult subject he would attempt to deal with would be the Irish land system. He had begun to deal with this subject in 1870, but he had not made his measure of reform strong enough, or nearly strong enough, to cope with the difficulties of land-tenure reform. It was announced on his behalf that the government were determined to bring in a measure of a strong and comprehensive nature to deal with the land-tenure system of Ireland. But it was not possible to undertake the carrying of such a measure in an already shortened and overloaded session. The Irish National party admitted the difficulty, but asked the government to take in the meantime some steps to prevent the ruthless evictions.

The question of eviction was at the heart of the whole land controversy in Ireland. Shall the landlord, or shall he not, have the absolute right to turn the tenant out of the land which the tenant alone, utterly unhelped by the landlord, has converted from a worthless bog into a property? Shall the landlord have the absolute right to exact a regularly increasing rent from the tenant because of the increasing value of the land, when that increase of value is due altogether to the tenant's own energy and

patience ? If the tenant cannot pay the increased rent, shall the landlord have a right to turn him out and sell the product of his industry to another man ? That was, in simple substance, the Irish land question. A bill was about to be introduced to give the Irish tenant for the first time the right to profit by his own industry. We asked the government not to allow the tenant to be swept off the land before the measure for his protection could be passed.

The government consented to our demand and brought in what was known as the Compensation-for-Disturbance Bill. The measure simply enacted that if a landlord chose to turn out a tenant he must at least repay him the value of any genuine improvements the tenant might have made in the land. This would be, in fact, to stop unjust eviction, for the landlords would not care to pay a money compensation however fairly earned. The government brought in their bill and succeeded in carrying it through the House of Commons. The House of Lords rejected it. A cry of despair went up from the Irish tenants. Even those who were well disposed to trust to Mr. Gladstone lost heart. "What is the good ?" I heard many of them ask ; "even if he really wishes to help us and to save us, the House of Lords won't let him." Then came violence and outrage, born of despair. I have never yet heard of any country in which despair did not lead to violence and to outrage. In the House of Commons, two years or more after that time, I myself described the action of the House of Lords in rejecting the Compensation-for-Disturbance Bill as the fountain and origin of all the troubles and the evils that followed ; and I was glad to observe that Mr. Gladstone gave by voice and by gesture his most energetic assent to my declaration.

Of course Mr. Gladstone's Land Bill had to be passed in the end—and of course the end was not far off. It was passed in 1881. The Lords, as usual, had delayed wholesome legislation by one session only. But in this particular instance, as in some other instances, too, the delay interposed by the Lords brought on the country tumult and passion and despair, violence and the shedding of blood.

My short sketch of the manner in which the House of Lords dealt with the Irish land question at that time would be sadly incomplete if I did not add that the peers so mutilated some of

the clauses of Mr. Gladstone's Land Bill of 1881 as to make them utterly inoperative for the very objects to which they were intended to apply. The famous "Healy clause," for example, they cut and carved until it became a mere subject for vexatious legislation to prevent the tenant from obtaining his rights. It was a clause introduced for the tenant's protection. The House of Lords converted it into a mechanism for his further vexation.

I can imagine an American reader asking why any Liberal government allows the House of Lords to mutilate its good measures in this reckless and wholesale fashion? Why do not Liberal governments stand out and insist that measures which have been carried through the Commons shall not be mangled and spoiled in the House of Lords? The reason can be easily given, although I do not think the justification can be quite so easily found. Our over-incumbered system of legislation in our centralized Parliament at Westminster forces us to do everything in a hurry. We are always in a race against time. If a bill gets thrown out this session, it may be very hard, unless it is a measure of the most immediate importance, to find a place for it in the next session. Even if it is a measure of great importance, still there are various other measures of great importance waiting and pressing for their turn. Therefore the government will do almost anything for the sake of carrying the principle of a bill within the session during which it has been introduced.

The government, let us say, have brought in some measure to which they attach great importance and which has a distinct and a novel principle. Let it, for the sake of argument, be an Irish land bill. The measure, after much struggle, is carried intact through the House of Commons. By this time the session is far advanced. It goes up to the Lords, and the Lords, not daring to reject it, make such alterations in certain clauses as to render these clauses of no practical value. The bill comes down to the Commons again, and the Commons refuse to agree to the Lords' amendments. Then there are conferences between the two houses—and the time is running on. If an agreement cannot be found, the bill will have to stand over to another session. The government, therefore, feel driven to accept a compromise for the sake of affirming the principle of the measure; as was done in the case of the Irish Land Bill. The bill becomes law in its mutilated form and fails to give satisfaction, and has in course of time to

be restored to its original purpose by other acts of legislation. Time is lost, much difficulty is created, and great harm is done by the action of the House of Lords.

I think if I were a Liberal Prime Minister I would put my foot down, and refuse to allow any of my important measures to be tinkered and spoiled by the House of Lords. I think I would let the bill be postponed for once, and give the country clearly to understand why it was postponed. I would throw on the House of Lords the full responsibility for its postponement. A lesson of that kind would cure the House of Lords very soon of its passion for spoiling good measures.

Ireland has, of course, been always a happy hunting-ground for the House of Lords. It has been so much safer to spoil, or even altogether reject, a good bill for Ireland than to spoil or reject a good bill for England. Until within the last few years Ireland had hardly any strong friends in Parliament. The House of Lords might cut any capers it liked where merely Irish legislation was concerned. No outcry loud enough to reach the ears of the big British public could well be made over a rejected measure to improve the condition of the Irish laborers, or to establish in Ireland a satisfactory method for the registration of votes, or to amend the hideous defects and anomalies of the Irish grand-jury system. Therefore, the history of legislation records an unbroken succession of annual instances to show what the Lords have done with any and all attempts made by Irish members of Parliament to introduce domestic reforms into their own country.

There are reforms still unaccomplished for the Irish governing system which have been the subject of legislation during all the sessions of Parliament that I can remember. These measures were brought in every year as a matter of course—as a matter of duty. At first they were rejected by the majority in the House of Commons. Then, by iteration of fact and argument, they justified themselves and commended themselves, as every measure of genuine reform always does in the end, to the House of Commons—the representative assembly, which is compelled to be in touch with the nation. Then came another and a familiar stage in the movement. The measures accepted by the House of Commons were invariably rejected, year after year, by the House of Lords. Many of them remain in that position to this very day.

They were not important enough, in the imperial sense, to arouse a national enthusiasm and to provoke by their rejection a national clamor, and the peers did not care three straws for any outcry made by the Irish people.

But the Irish people have gained what Wordsworth calls "great allies" in England. They have carried the best English statesmanship with them, and, better even than that, they have won to their side the whole liberalism and radicalism and democracy of Great Britain—their allies are the people of England and Scotland and Wales. And Ireland will soon be free to settle her domestic legislation for herself.

It may be asked whether, then, I see no countervailing advantage to the country in the existence of the House of Lords. Admitting all the defects, are there actually no advantages? I only give my own opinion, and I say, No—none whatever. I am not now discussing the wider question as to the value of a second chamber in the legislation of a state. I am thinking merely of the House of Lords in its present form, or in any form like to that; and I can only say that I see in its existence much evil to the national interests and no good: no—none whatever.

JUSTIN MCCARTHY.